

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SAUL NAJERA, *et al.*,

Plaintiffs,

VS.

M/V CLIPPER LIS, *her equipment and appurtenances, etc.,*

Defendant.

§ 100.00

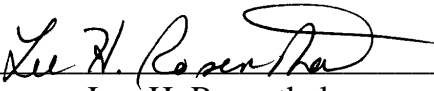
CIVIL ACTION NO. H-06-1003

ORDER

This court has reviewed the Memorandum and Recommendation of the United States Magistrate Judge signed on January 6, 2009, addressing Third-Party Defendant Lloyd's Register North America, Inc.'s motion for summary judgment on the claims filed against it by Colas Rose, Ltd. This court has made a *de novo* determination of the Magistrate Judge's recommendation that the summary judgment motion be denied. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). This court adopts the Memorandum and Recommendation of the Magistrate Judge as this court's Memorandum and Opinion. There are disputed issues of fact material to determining whether the crane inspection that is the basis of the alleged damages was covered by the Request for Marine Services, which would limit Lloyd's liability. There are also disputed issues of fact material to determining whether Lloyd's can be found liable for negligence or negligent misrepresentation based on the survey Lloyd's performed on the crane. Accordingly, the motion for summary judgment is denied.

A scheduling and status conference is set for **February 23, 2009, at 5:00 p.m., in Courtroom 11-B.**

SIGNED on January 28, 2009, at Houston, Texas.



Lee H. Rosenthal
United States District Judge